

### **REMARKS**

#### **Status of the Claims**

Claims 1, 7-9, 22, 25 and 34 are currently pending in the application. Claims 22, 23, 25 and 34 stand rejected. Claims 1 and 7-9 are in allowable form. Claims 22 and 34 have been amended herein. Claim 23 has been canceled herein. All amendments and cancellations are made without prejudice or disclaimer. No new matter has been added by way of the present amendments. Specifically, the amendment to claim 22 is supported throughout the specification at, for instance, page 9. Claim 34 has been amended for consistency with claim 22. Reconsideration is respectfully requested.

#### **Interview**

Applicants' representatives thank the Examiner for extending the courtesy of an interview on or about August 23, 2007. During the interview, the status of claims 1 and 7-9 were discussed. The Examiner clarified during the interview that these claims are in condition for allowance.

#### **Rejections Under 35 U.S.C. § 112, First Paragraph**

##### **Written Description**

Claims 22, 23, 25 and 34 stand rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. (*See*, Office Action of April 30, 2007, at page 3, hereinafter, "Office Action"). Applicants traverse the rejection as set forth herein.

The Examiner maintains the written description rejection because “the claims remain drawn to embodiments in which applicants were not in possession of at the time of filing.” (*Id.* at page 5).

Although Applicants do not agree that the presently claimed invention lacks written description support in the specification, to expedite prosecution, claim 22 has been amended herein without prejudice or disclaimer to recite, “A kit for use in the diagnostics of dyslexia or in assessing the predisposition of an individual to dyslexia, comprising a container; and in said container: a nucleic acid comprising the nucleic acid sequence of SEQ ID NO:1 or the complement thereof.” Thus, as amended, claim 22 does not recite “a compound specifically hybridizing to a nucleic acid sequence . . .” Applicants believe this amendment fully addresses the Examiner’s basis for the present rejection.

Since no specific reasoning is provided for the rejection of dependent claims 25 and 34, these dependent claims are believed to comply with the written description requirement as, *inter alia*, depending from a fully described and supported base claim, amended claim 22.

Reconsideration and withdrawal of the written description rejection of claims 22, 25 and 34 are respectfully requested.

#### Enablement

Claims 22, 23, 25 and 34 stand rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the enablement requirement. (*See*, Office Action, at page 5). Applicants traverse the rejection as set forth herein.

The Examiner states that the enablement rejection is maintained because “the skilled artisan would not know how to use any nucleic acid which hybridizes to SEQ ID NO:1.” (*Id.* at page 11).

Although Applicants do not agree that the presently claimed invention lacks enablement support in the specification, to expedite prosecution, claim 22 has been amended herein without prejudice or disclaimer to recite, “A kit for use in the diagnostics of dyslexia or in assessing the predisposition of an individual to dyslexia, comprising a container; and in said container: a nucleic acid comprising the nucleic acid sequence of SEQ ID NO:1 or the complement thereof.” Thus, as amended, claim 22 does not recite “a compound specifically hybridizing to a nucleic acid sequence . . .” Applicants believe this amendment fully addresses the Examiner’s basis for the present rejection.

Since no independent reasoning is provided for the rejection of dependent claims 25 and 34, these dependent claims are believed to be fully enabled by the present specification as, *inter alia*, depending from a fully enabled base claim, amended claim 22.

Reconsideration and withdrawal of the enablement rejection of claims 22, 25 and 34 are respectfully requested.

#### **Rejections Under 35 U.S.C. § 103(a)**

Claims 22, 23, 25 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brennan, U.S. Patent No. 5,474,796 in view of Ahern, *The Scientist*, 9(15):20, 1995. (*See*, Office Action, at page 11). Applicants traverse the rejection as hereinafter set forth.

The Examiner maintains the obviousness rejection because “the 10-mers of Brennan would hybridize specifically with the nucleic acid sequence of SEQ ID NO:1.” (*Id.* at page 13).

Applicants note for the record that the Examiner has mistakenly misstated Applicants’ position regarding the present obviousness rejection. That is, the Examiner states that Applicants asserted in their last reply that “Brennan teaches a particular structure, a compound that specifically hybridizes to a nucleic acid sequence of SEQ ID NO:1.” This statement is in error. In fact, Applicants argued that, “Claim 22, as amended, does recite a nucleic acid of a particular structure, a compound which ‘specifically hybridizes to a nucleic acid sequence of SEQ ID NO:1.’” Acknowledgement of the Examiner’s misstatement is respectfully requested.

Furthermore, although Applicants continue to insist that the presently claimed invention is not obvious in light of the disclosures of Brennan and Ahern, as already discussed above and solely for the purpose of expediting prosecution, claim 22 has been amended herein, without prejudice or disclaimer, to recite “A kit for use in the diagnostics of dyslexia or in assessing the predisposition of an individual to dyslexia, comprising a container; and in said container: a nucleic acid comprising the nucleic acid sequence of SEQ ID NO:1 or the complement thereof.” Thus, as amended, claim 22 does not recite “a compound specifically hybridizing to a nucleic acid sequence . . .” Applicants believe this amendment fully addresses the Examiner’s basis for the present rejection. Neither cited reference discloses or suggests all of SEQ ID NO:1.

Since no independent reasoning is provided for the rejection of dependent claims 25 and 34, these dependent claims are believed to be also non-obvious as, *inter alia*, depending from a non-obvious base claim, amended claim 22.

Reconsideration and withdrawal of the obviousness rejection of claims 22, 25 and 34 are respectfully requested.

**CONCLUSION**

If the Examiner has any questions or comments, please contact Thomas J. Siepmann, Ph.D., Registration No 57,374, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

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